

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of) Case No.: **14-N-03850-DFM**
)
FREDERICK T. JELIN,) **DECISION AND ORDER OF**
) **INVOLUNTARY INACTIVE**
Member No. 105786,) **ENROLLMENT**
)
A Member of the State Bar.)

Respondent **Frederick T. Jelin** (Respondent) was charged with violating California Rules of Court, rule 9.20, by willfully failing to comply with rule 9.20 as ordered by the Supreme Court. Respondent failed to participate, either in person or through counsel, and his default was entered. The Office of the Chief Trial Counsel of the State Bar of California (State Bar) filed a petition for disbarment under rule 5.85 of the Rules of Procedure of the State Bar.¹

Rule 5.85 provides the procedure to follow when an attorney fails to participate in a disciplinary proceeding after receiving adequate notice and opportunity. The rule provides that, if an attorney's default is entered for failing to respond to the notice of disciplinary charges (NDC) and the attorney fails to have the default set aside or vacated within 90 days, the State Bar will file a petition requesting the court to recommend the attorney's disbarment.²

¹ Unless otherwise indicated, all references to rules are to this source.

² If the court determines that any due process requirements are not satisfied, including adequate notice to the attorney, it must deny the petition for disbarment and take other appropriate action to ensure that the matter is promptly resolved. (Rule 5.85(F)(2).)

In the instant case, the court concludes that the requirements of rule 5.85 have been satisfied and, therefore, grants the petition and recommends that Respondent be disbarred from the practice of law.

FINDINGS AND CONCLUSIONS

Jurisdiction

Respondent was admitted to practice law in this state on December 3, 1982, and has been a member since then.

Procedural Requirements Have Been Satisfied

On September 23, 2014, the State Bar properly filed and served a Notice of Disciplinary Charges (NDC) on Respondent by certified mail, return receipt requested, at his membership records address. The NDC notified Respondent that his failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) On September 29, 2014, the State Bar received the return receipt/signature card, dated September 24, 2014, bearing the signature of one "Aura Escobar." A box on the receipt/signature card, which was checked, indicated that the signer was acting as an "Agent."

In addition, reasonable diligence was also used to notify Respondent of this proceeding. The State Bar made several attempts to contact Respondent. On October 15, 2014, a courtesy copy of the NDC was sent to Respondent at his membership records address by first class mail. That mailing was not returned to the State Bar by the U.S. Postal Service.

On October 15, 2014, the State Bar deputy trial counsel (DTC) assigned to this matter, knowing that Respondent was on disciplinary probation, contacted his assigned probation deputy to ascertain whether Respondent's profile contained any alternative address. The Office of Probation had an alternative address for Respondent, which it provided to the DTC. On October

16, 2014, a courtesy copy of the NDC was sent to that alternative address. That mailing was also not returned by the U.S. Postal Service.

On October 20, 2014, the DTC telephoned Respondent at his membership records telephone number. Respondent, who answered the phone, stated that he had not received a copy of the NDC because he had been out-of-state and asked the DTC to send him a copy of the NDC via email. Respondent provided the email address to which he wanted the NDC sent. On October 20th, the DTC emailed the NDC as requested by Respondent. In addition to sending a copy of the NDC to the email address provided by Respondent, the DTC requested that Respondent file an immediate response to the NDC and indicated that, if he failed to do so, the State Bar would file a motion for entry of his default.

On October 23, 2014, the DTC sent an additional email message to the email address provided by Respondent, informing him that an answer to the NDC had not been received and that a motion for entry of his default would follow.

Notwithstanding the above efforts by the DTC, Respondent did not file a response to the NDC. On October 24, 2014, the State Bar filed and properly served a motion for entry of Respondent's default. The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the DTC, declaring the additional steps taken to provide notice to Respondent. (Rule 5.80.) The motion also notified Respondent that, if he did not timely move to set aside his default, the court would recommend his disbarment. Respondent did not file a response to the motion, and his default was entered on November 14, 2014. The order entering the default was served on Respondent at his membership records address by certified mail, return receipt requested. The court also ordered Respondent's involuntary inactive enrollment as a member of the State Bar under Business and Professions

Code section 6007, subdivision (e), effective three days after service of the order. He has remained inactively enrolled since that time.

Respondent did not seek to have his default set aside or vacated. (Rule 5.83(C)(1) [attorney has 90 days to file motion to set aside default].) On February 18, 2015, the State Bar filed the petition for disbarment. As required by rule 5.85(A), the State Bar reported in the petition that: (1) Respondent has not contacted the State Bar since his default was entered; (2) there is one investigation matter pending against Respondent; (3) Respondent has two prior records of discipline; and (4) the Client Security Fund has not made any payments resulting from Respondent's conduct. Respondent did not respond to the petition for disbarment or move to set aside or vacate the default. The case was submitted for decision on March 24, 2015.

Prior Record of Discipline

Respondent has two prior records of discipline. Pursuant to an order of the State Bar Court filed on July 20, 2012, in State Bar Court case No. 07-C-14226, Respondent was publicly reprovved with conditions for conduct that resulted in his criminal conviction for violating Penal Code section 148(a), i.e., resisting arrest.

Pursuant to a Supreme Court order filed on March 24, 2014, Respondent was suspended for two years, the execution of which was stayed, and placed on probation for three years subject to conditions, including that he be suspended from the practice of law for the first 90 days of his probation, for failing to comply with certain conditions attached to his public reprovval. Specifically, Respondent willfully violated rule 1-110 of the Rules of Professional Conduct by failing to: (1) contact the Office of Probation and schedule a meeting to discuss the conditions of his reprovval within 30 days from the effective date of the discipline in the reprovval matter; and (2) file three quarterly reports by their due dates.

The Admitted Factual Allegations Warrant the Imposition of Discipline

Upon entry of a respondent's default, the factual allegations in the NDC are deemed admitted and no further proof is required to establish the truth of such facts. (Rule 5.82.) As set forth below in greater detail, the factual allegations in the NDC support the conclusion that Respondent is culpable as charged and, therefore, violated a statute, rule, or court order that would warrant the imposition of discipline. (Rule 5.85(F)(1)(d).)

Case Number 14-N-03850 (The Rule 9.20 Matter)

Respondent willfully violated California Rules of Court, rule 9.20 (duties of disbarred, resigned, or suspended attorneys) by not filing a declaration of compliance with rule 9.20 in conformity with the requirements of rule 9.20(c), thereby failing to comply with the Supreme Court order requiring timely compliance with California Rules of Court, rule 9.20.

Disbarment is Recommended

Based on the above, the court concludes that the requirements of rule 5.85(F) have been satisfied, and Respondent's disbarment is recommended. In particular:

- (1) the NDC was properly served on Respondent under rule 5.25;
- (2) reasonable diligence was used to notify Respondent of the proceedings prior to the entry of his default;
- (3) the default was properly entered under rule 5.80; and
- (4) the factual allegations in the NDC, deemed admitted by the entry of the default, support a finding that Respondent violated a statute, rule or court order that would warrant the imposition of discipline.

Despite adequate notice and opportunity, Respondent failed to participate in this disciplinary proceeding. As set forth in the Rules of Procedure of the State Bar, the court recommends disbarment.

RECOMMENDATIONS

Disbarment

The court recommends that respondent **Frederick T. Jelin**, State Bar number 105786, be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys.

California Rules of Court, Rule 9.20

The court also recommends that Respondent be ordered to comply with the requirements of California Rules of Court, rule 9.20 and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order in this proceeding.

Costs

The court further recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, such costs being enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that **Frederick T. Jelin**, State Bar number 105786, be involuntarily enrolled as an inactive member of the State Bar of California, effective three calendar days after the service of this decision and order. (Rule 5.111(D).)

Dated: June _____, 2015

DONALD F. MILES
Judge of the State Bar Court